

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number Q95056	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 10/584,710	Filed June 26, 2006	
	First Named Inventor Masao OTSUKA		
	Art Unit 1796	Examiner Nicole M. BUIE	
WASHINGTON OFFICE 23373 CUSTOMER NUMBER			
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal			
The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
<input checked="" type="checkbox"/> I am an attorney or agent of record. Registration number <u>33,276</u>		 Signature	
<u>Abraham J. Rosner</u> Typed or printed name			
<u>(202) 293-7060</u> Telephone number			
<u>September 11, 2008</u> Date			

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q95056

Masao OTSUKA, et al.

Appln. No.: 10/584,710

Group Art Unit: 1796

Confirmation No.: 3837

Examiner: Nicole M. BUIE

Filed: June 26, 2006

For: **PROCESS FOR PREPARING FLUOROPOLYMER**

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MAIL STOP AF - PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action of June 12, 2008, Appellants file this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Appellants turn now to the rejections at issue.

Claims 1-5 were rejected under 35 U.S.C. §103(a) as being unpatentable over WO 02/28925 A2 to Tang in view of U.S. Patent 6,395,701 to Connor et al.

Tang was cited as disclosing a process for preparing a fluoropolymer containing at least one kind of fluoroolefin, which comprises carrying out polymerization in the presence of a hydrocarbon surfactant. The Examiner relied on Connor et al as disclosing branched surfactants for use in surfactant systems, which surfactants are said to be within the scope of the present claims. The Examiner further considered that one skilled in the art would have understood that

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branched surfactants exhibit certain properties beneficial for the polymerization processes taught by Tang et al. The reason for rejection was that it would have been obvious to substitute the linear surfactant of Tang et al with the branched surfactant of Connor so as to simplify processing and to improve the polymerization process.

Appellants respectfully disagree with the basis for rejection, and believe that the present claims are patentable over the cited prior art for the following reasons.

As claimed in claim 1, the invention is directed to a process for preparing a fluoropolymer containing at least one kind of fluoroolefin, which comprises carrying out polymerization in the presence of a *branched* surfactant represented by formula (1).

Two principle points of distinction were identified in the Amendment filed April 21, 2008. First, Appellants pointed out that Tang discloses polymerization of monomer mixtures comprising a fluoroolefin in the presence of a linear hydrocarbon sulfonate surfactant different from the *branched* surfactant represented by formula (1) of present claim 1. Secondly, Appellants noted that although Connor et al relates to various consumer products based on branched 17-carbon fatty acids, there is no disclosure in Connor et al of carrying out polymerization in the presence of a fatty acid surfactant disclosed therein. Consequently, there is no apparent reason which would lead one of ordinary skill to employ a fatty acid surfactant used by Connor et al (for preparing consumer products, with no mention of polymerization in the presence of the surfactant and no disclosure or mention of a fluoropolymer or fluoroolefin or even fluorine) in the fluoropolymerization of Tang.

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In the Response to Arguments (pages 3-4 of the final Office Action dated June 12, 2008), the Examiner maintained the rejection for the reasons that A) unobviousness cannot be shown by attacking Tang and Connor et al individually where the rejection is based on a combination of references; and B) Connor et al and Tang are combinable because they are both concerned with the same technical difficulty, namely, hydrocarbon surfactants.

Contrary to the Examiner's assertion A), Appellants do not individually attack the cited references but rather dispute motivation for combining Tang and Connor et al. As to B), although both Connor et al and Tang may employ hydrocarbon surfactants, their respective roles are entirely different. Namely, Tang relates to polymerization in the presence of a fatty acid surfactant for preparing a fluoropolymer, whereas Connor et al incorporates a hydrocarbon surfactant into various consumer products such as a cleaning composition for various purposes having nothing to do with polymerization (see col. 12, lines 40-53 of Connor et al).

Accordingly, Appellants respectfully request withdrawal of the final rejection under 35 U.S.C. § 103(a) upon review by the Pre-Appeal Panel.

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The USPTO is directed and authorized to charge all required fees, except for the issue fee and the publication fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said deposit account.

Respectfully submitted,



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